

NEBRASKA STATE BOARD OF PUBLIC ACCOUNTANCY

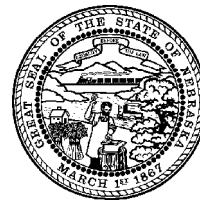
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Phone (402) 471-3595 or 1-800-564-6111

<http://www.nol.org/home/BPA>

2001
August

NEWSLETTER



Check out our web site: www.nol.org/home/BPA

Late Breaking News

INJUNCTION ORDERED!

In the *November 2000 Board Newsletter*, we reported that the Nebraska Board of Public Accountancy had requested the Attorney General pursue an injunction order against former Certified Public Accountant, **Robert Chisholm**, of Grand Island, Nebraska.

The Petition for an Injunction was filed with the Lancaster County District Court on September 24, 1999 by the Attorney General's office to prevent Chisholm from continuing his misuse of the CPA designation when he no longer possessed a Nebraska CPA certificate. In November of 1996, Chisholm agreed to surrender his Nebraska CPA certificate as part of a disciplinary negotiation. In exchange for his certificate, the Board agreed to drop its pursuit of disciplinary proceedings. Since that time, Chisholm's name has appeared in various phone book directories in the Fremont and Grand Island areas as a Certified Public Accountant, when in fact he is no longer a CPA.

In the absence of a CPA certificate and a permit to practice, an individual cannot advertise, solicit business, or otherwise hold out to the public as a Certified Public Accountant. Any person found to be in violation of Nebraska law by doing so may be enjoined from such behavior and may also be found guilty of a Class II misdemeanor.

The Board has continued to work with the Attorney General's office in obtaining the injunction, and just recently received word that District Judge Earl J. Witthoff has entered a judgment on the matter. The August 9, 2001 Judgment states that **"Robert Chisholm is hereby permanently enjoined and restrained from holding himself out as a certified public accountant in any manner, including, but not limited to any listing in any telephone directory."**

The Board believes that individuals who are incorrectly or

illegally using the restricted CPA designation should be prohibited from doing so, for the protection of the public; and would like to thank area CPAs for providing information and support in the pursuit of this injunction. Questions on this matter should be directed to Annette Harmon, Executive Director.

Legislative News

The Board reported in the *February 2001 Board Newsletter* of the introduction of **LB 455** by **Senator Jon Bruning** of Omaha. The primary focus of the bill was to ensure that the Board would be able to provide the Uniform CPA examination in a computer based testing (CBT) format. The bill was assigned to the Banking, Commerce and Insurance Committee which passed it to General File with Committee amendments. The amendments deleted the "good moral character" reference and reduced the statutory cap on examination fees from \$1,000 to \$400. At the conclusion of the session, LB 455 remained on General File.

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We would like to know your preference for receiving the *Board Newsletter*. Please take a few minutes to fill out the survey and return it to the Board office.

Thanks!

Continuing Professional Education

NEED A COURSE APPROVED FOR CPE? NEW PQF AVAILABLE!!

The CPE Committee, at the Board's June 18-19, 2001 meeting, recommended the Board change the Program Qualification Form (PQF) to address new types of CPE requests that the Board office has been receiving. Requests are being made for approval of courses that are Video-, Audio-, Tele- and Web- conferences.

The new PQF has boxes to check as to the type of CPE (i.e. formal, self-study, videoconference, etc.). Also, question # 8 now asks if the Sponsor is registered with NASBA and asks for the NASBA Sponsor Registry number. NASBA Guidelines will be used to determine if a sponsor of a Video, Audio-, Tele- and Web- conference will be accepted. NASBA Sponsor registration is not enough by itself for CPE approval. The course will also need to be submitted and reviewed for content, length and method of delivery. The new form is available from the Board office by calling (402) 471-3595 or (800) 564-6111, or can be found on our web site at: www.nol.org/home/BPA. (Look for it on the "CPE Guidelines" page.)

Please be sure to complete the Program Qualification Form, and attach a course outline/syllabus, timeline, and background of speaker(s) before submitting the course for approval. Courses will no longer be approved for CPE without the new Program Qualification Form attached.

****IMPORTANT NEW INFORMATION****

In other CPE news, by October 1, 2001 our web site will have a searchable database for CPE courses approved by the Board for CPE credit in Nebraska! Anyone wishing to see if a course has already been pre-approved by the Board will be able to check it out on this searchable database.

Once the database is operational, simply log on to our web site at www.nol.org/home/BPA, click on the "CPE Guidelines" page, and link to the CPE searchable database to find approved courses for the calendar year 2001. Only courses for the current reporting year will be available. You may search by course title, sponsor name or course location, without knowing the exact title or full sponsor name. You may type in part of a name or just one letter to search. The more specific the information you put in, the faster the search will go and the more accurate the results will be. If you have any question about whether a course found on the searchable database is the same course you are considering taking, please feel free to contact the Board office for more information and confirmation.

If you have used the "Licensed CPAs in Nebraska" search on our web site, this search operates the same way. If you haven't yet checked out our web site, or the different searchable databases there, check it out soon!



www.nol.org/home/BPA

WEB PAGE NEWS

If you have tried to find licensed CPAs or CPA Firms in Nebraska, or CPAs or CPA Firms that have been disciplined by the Board, and experienced some difficulty in finding the information, here are some tips to assist you:

1. You may type as little or as much information into a search box as you want. You may search for Bill Smith by typing **Bill** in the "first name" box, or **Smith** in the "last name" box. You can also search for **B** in the "first name" box or **S** in the "last name" box. The more specific the information you type in, the more exact the results of the search.
2. If you are looking to find a CPA firm in Ogallala, just type **Ogallala** into the "City" box, hit search, and all CPAs and CPA Firms in **Ogallala** will appear.
3. If you are looking for a list of all CPAs in Nebraska, just type **NE** in the "state" box.
4. **Can't find a firm or an individual?** First check the spelling. Then check if the person or firm has an active permit to practice. The database only includes CPAs and CPA Firms with a current active permit to practice public accountancy in Nebraska. If you still can't find the firm or individual, call the Board office at (402) 471-3595 or (800) 564-6111, and we will be happy to check our records for you!

If you are looking for a mailing label list, unfortunately the information is not available in mailing label format. However, you could print the information and make your own mailing labels, or copy the page onto your own computer and work with your own label program.

Report on Disciplinary Action

The following is a status report on actions taken by the Nebraska Board of Public Accountancy since the last Newsletter. In accordance with the policy of the Board, disciplinary actions that are a matter of public record are reported in the Newsletter for the information of the licensees. Questions regarding these cases should be directed to Annette Harmon, Executive Director.

HEARINGS

GERARD R. FORGET, III - DECISION & ORDER
(Certificate #6373) Omaha, NE 1/19/2001

Complaint: The complaint, as filed by the Nebraska Board of Public Accountancy, alleged that Forget violated the Public Accountancy Act and the Rules and Regulations of the State Board of Public Accountancy by utilizing the CPA designation and practicing public accountancy without having the requisite experience and status as a certified public accountant or the appropriate licenses.

Findings of Fact: After a formal hearing on December 1, 1999, the Board found that Forget was in violation of the Public Accountancy Act and the Rules and Regulations of the State Board of Public Accountancy by holding himself out to the public as a permit holder; by performing or offering to perform accounting services, including tax preparation and advice while holding out to the public as a permit holder; by using the designation CPA in a way that was a misrepresentation of fact, and was likely to mislead or deceive because it failed to make a full disclosure of relevant facts, implied educational or professional attainments or licensing recognition not supported in fact, and contained other representations or implications that in reasonable probability would cause a person of ordinary prudence to misunderstand or be deceived; and by practicing public accountancy as defined in Title 288, Chapter 3-001.17.

Decision and Order: On January 19, 2001 the Board ordered that Forget's CPA Certificate be revoked; however, the judgment of revocation was suspended on the following terms, conditions, and limitations:

- a. on the condition that Forget does not associate his name or any name of his firm with the term "certified public accountant" or the abbreviation "CPA" in any manner or form; and
- b. Forget may refer to his completion of the CPA exam and/or his membership in professional accountant associations on the condition that any such reference contains the statement "I passed the Uniform Certified Public Accountants examination on May 8, 1996 but I have not met all the requirements

for a permit to practice public accountancy and therefore I am not a CPA."

Appeal: The Board's Decision and Order was appealed by Forget to the Lancaster District Court. It is currently in the appeal process, and the court's decision will be published when received.

JEFFREY L. BENNE - DECISION AND ORDER

(Certificate # 5777) Lincoln, NE 1/25/2001

Complaint: The complaint, as filed by the Nebraska Board of Public Accountancy, alleged that Benne had been convicted of a felony, and that he had committed an act that reflected adversely on his fitness to engage in the practice of public accountancy.

Findings of Fact: After a formal hearing on November 17, 2000, the Board found that Benne was in violation of the Public Accountancy Act and the Rules and Regulations of the State Board of Public Accountancy by committing an act that reflected adversely on his fitness to engage in the practice of public accountancy, and had been convicted of a felony.

Decision and Order: The Board ordered that Benne's CPA certificate be revoked effective with the date of the Decision and Order - January 25, 2001.

Appeal: The Board's Decision and Order was appealed by Benne to the Lancaster District Court. It is currently in the appeal process, and the court's decision will be published when received.

STIPULATION AND CONSENT ORDER

RODNEY G. ZWYGART

(Certificate #1670) Norfolk, NE 11/17/2000

In lieu of a formal hearing before the Board on allegations of violations of the Public Accountancy Act and Rules and Regulations of the State Board of Public Accountancy, Zwygart agreed to enter into a Stipulation and Consent Order with the Board on November 17, 2000.

The complaint, as filed by the Nebraska Board of Public Accountancy, alleged dishonesty, fraud, or gross negligence in the practice of public accountancy; and violation of the rules of professional conduct adopted and promulgated by the board under the authority granted by the Act, specifically "Integrity and Objectivity," "Competence," and "Acts Discreditable."

Licensing

At their January 18-19, 2001 meeting, the Board re-examined the Rules and Regulations and its Guidelines on offices and work space locations. The complete rules are spelled out in Title 288, Chapter 10 - Public Accounting Offices. The Rules define an **"Office"** as "a permanent place of business where the practice of public accountancy is performed by a certified public accountant or public accountant, partnership of certified public accountants or public accountants, or professional corporation of certified public accountants or public accountants."

In contract, a **"Work space"** is defined as "a temporary location maintained by a certified public accountant or public accountant, partnership of certified public accountants, or professional corporation of certified public accountants or public accountants."

The final definition in the rules is that of **"Manager."** Under

the rules, "Manager" means "an active permit holder who is a staff employee, shareholder or partner in a firm, and who is designated by the firm to manage the office of the firm in Nebraska." On firm permit application renewal forms, the term "Office Manager" is often misinterpreted, and a firm may list a non-professional person who has been assigned administrative duties of managing an office. However, the "Manager" may also be noted on Board forms as the **"Responsible CPA."** Pursuant to the Public Accountancy Act, the "responsible CPA" or "manager" is the one individual who is responsible for the persons and work product of that office.

Section 1-135 of the Public Accountancy Act states that "each office shall be under the supervision of a manager who holds a permit issued under section 1-136 which is in full force and effect. Such manager may serve in such capacity at one

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GUIDE LINES FOR DETERMINING REGISTERED OFFICE OR WORKSPACE

	<u>REGISTERED OFFICE</u>	<u>WORKSPACE</u>
Office Location	Permanent	Temporary*
Hours Open/Staffed	No minimum	See definition of Temporary
Employment of Staff	Full/Part/Permanent/Temporary	Part time basis only
Supervision of Staff	Registered Manager (Licensed CPA)**	CPA Owner***
Window/door sign	Permanent	Only when open
Location telephone listing / answering service	Yes	No
Location advertising	Yes	No
Location on letterhead, Business card, etc.	Yes	No
Open to the public	Yes	No
Notification to NBPA	Register annually; notify of any changes in managership within 30 days	Register within 10 days prior to first opening such work space; notify when work space is closed for more than 30 days

* The Board has defined "temporary" as a period of five months or less, or the equivalent in a calendar year.

** The office manager must maintain his principal residence within a reasonable commuting distance of the registered office and a Licensed CPA must be present a majority of the time the office is open to adequately supervise the work being produced by the office.

*** A workspace does not require a manager. However, a CPA owner (partner, shareholder, sole proprietor) must be designated as the supervising individual and present when the office is open. Licensed and non-licensed staff may work in such work space on a part-time basis.

office only. Such manager shall be directly responsible for the supervision and management of the office and may be subject to disciplinary action for the actions of the person or firm or any persons employed by that office of the person or firm within the State of Nebraska which relate to the practice of public accountancy."

The "responsible CPA" for a work space location is defined in Title 288, Chapter 10, Section 004.01E: "Supervision of licensed and non-licensed staff who may work in such work space on a part time basis shall be the responsibility of a designated partner or shareholder, or in the case of a sole proprietorship, the sole proprietor."

The Rules also prescribe advertising restrictions for both registered offices and work space locations. In a nutshell, work space locations may not have any advertising that is "permanent," including telephone directory listings, signs, letterhead, business cards, newspapers or other forms of advertising.

The Guidelines, with the recent modifications by the Board, are described here to help all firms be in compliance with the law and rules. The rules regarding Public Accounting Offices may be accessed on our website: www.nol.org/home/BPA (under "Rules & Regulations," click on Chapter 10) or call our office for a printed set at 1-800-564-6111 or (402) 471-3595.



DANGER! FAILURE TO RENEW TIMELY RESULTS IN PENALTY & CONSENT ORDER

Under the Public Accountancy Act and Title 288, The Revised and Substituted Rules of the Board, there are no provisions allowing an "untimely" or late renewal for a permit to practice to be processed. In an effort to make late renewals (those past the expiration date of June 30th) work and to work on an administrative level, the Board adopted the following policy in July 2000:

1. Individuals who have previously been late filing CPE Reports. A permit to practice shall be issued when the individual has presented satisfactory evidence of completion of sufficient CPE hours, has executed a Stipulation and Consent Order, and has paid an administrative fee of \$100 before the June 30th expiration date.

2. Individuals who have previously been late filing CPE Reports and have also (at least one time since June 1998) failed to timely file an application to renew their active permit to practice. A permit shall be issued when the individual has presented satisfactory evidence of completion of sufficient CPE hours, has executed a Stipulation and Consent Order and has paid an administrative fee of \$100 for late filing of CPE and an administrative fee of \$250 for the first occurrence of late filing or an administrative fee of \$500 for the second occurrence of late filing.

3. Individuals who have previously (since June 1998) failed to timely file an application to renew their active permit. An active permit to practice shall be issued when an individual has filed an application for a permit to practice, has executed a Stipulation and Consent Order, and has paid an administrative fee of \$250 for the first occurrence of late filing or an administrative fee of \$500 for the second occurrence of late filing.

4. CPA firms who have previously (since June 1998) failed to timely file an application to renew their firm permit. A firm permit to practice shall be issued when the firm has filed an application for a permit to practice, has executed a Stipulation and Consent Order, and has paid an administrative fee of \$250 for the first occurrence of late filing or an administrative fee of \$500 for the second occurrence of late filing.

In January 2001 the Board modified #3 of the policy to the following:

3. Individuals who have previously (since June 1998) failed to timely file an application to renew their active permit. An active permit to practice **or an inactive permit** shall be issued when an individual has filed an application for a permit to practice or inactive permit, has executed a Stipulation and Consent Order, and has paid an administrative fee of \$250 for the first occurrence of late filing or an administrative fee of \$500 for the second occurrence of late filing.

Thus, once an individual's active permit to practice has lapsed, the Stipulation and Consent Order is required to obtain either another active permit or an inactive registration.

The Board strongly encourages each individual and each CPA firm to renew their permit in a timely fashion and prior to the expiration date printed on the permit. Failure to do so will result in the application of the above policy. Internal procedures should be in place to catch the expiration of each permit and the applicable deadlines. If you need any assistance in determining when your permit to practice expires and what the applicable deadlines are in relation to it, please feel free to contact our office.

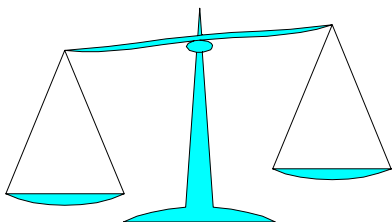
Disciplinary Action, continued from page 3

Zwygart stipulated to the facts presented by the Board, agreed to the finding of violations, and the following terms and conditions:

a) Zwygart shall not perform any business liquidation tax returns unless reviewed by a CPA chosen by the Board and at his own expense for a period of two years from the date of the Order (November 17, 2000);

b) Zwygart shall complete 32 hours of CPE in the advanced tax and/or the ethics area within one year of the date of the Consent Order. No more than 50% of the CPE credit can be in self study and said 32 hours is above and beyond the normal requirement for renewal of a permit in this state; and

c) Zwygart shall complete the AICPA Professional Ethics examination, receive a passing grade and submit the report showing the passing grade within 90 days of the signing of the Consent Order.



SCHEDULE OF FEES (Effective 7/01/2001)

CPA EXAMINATION FEES:

New Candidate		\$200
Re-examination:	All Subjects	200
	2 Subjects	100
	1 Subject	50
	Proctoring Fee	\$100

PERMITS TO PRACTICE:

CPA/PA (Biennial)	\$200
Firm (Annual)	100

INACTIVE REGISTRATION:

CPA/PA (Biennial)	80
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P.C./L.L.C. Certificate of Registration	\$ 25
CPA Certificate by Reciprocity	200
Office Registration (2nd office & ea. thereafter)	50

NO REFUND POLICY: Effective 3/27/95, the Board implemented a no refund policy of all fees paid to the state board.

NOTICE

2001

September 3	Holiday - Labor Day - Office Closed
September 26-27	Board Meeting, Lincoln, NE
September 30	Deadline for Applications for November 2001 CPA Exam
October 8	Columbus Day - Office Closed
November 7-8	CPA Exam, Lincoln, NE
November 12	Veteran's Day - Office Closed
November 22-23	Thanksgiving - Office Closed
December 25	Christmas - Office Closed

2002

January 1	Holiday - Office Closed
January 31	CPE Reports for Year 2001 DUE!
March 31	Deadline for Applications for May 2002 CPA Exam
May 1-2	CPA Exam, Lincoln, NE
May 31	Administrative DEADLINE - to Return Application for Renewal of Permit to Practice
June 30	ALL PERMITS FOR INDIVIDUALS WITH ODD BIRTH YEARS EXPIRE! ALL FIRM PERMITS TO PRACTICE EXPIRE!
July 4	Holiday - Office Closed
September 30	Deadline for Applications for November 2002 CPA Exam
November 6-7	CPA Exam, Lincoln, NE
December 25	Holiday - Office Closed

LICENSING STATISTICS

The following is a status report on permits and registrations issued as of August 1, 2001:

CPA Permits to Practice	1794
CPA Inactive Registrations	1661
PA Permits to Practice	2
PA Inactive Registrations	2
Partnerships	34
Professional Corporations	161
Limited Liability Companies	21
Limited Liability Partnerships	30

Total Number of CPA Certificates Issued: 6923

Uniform CPA Examination

MAY, 2001 EXAM STATISTICS

The following statistics were compiled for the May, 2001 Uniform CPA Examination:

New Candidates	28
Re-exam Candidates	111
Total	139

	<u>New</u>	<u>Re-exam</u>
Passed all parts	2	2
Passed on conditioned status		31
Conditioned	7	4
Improved Condition		12
Lost conditioned status		1
Failed	19	61

The following statistics were compiled according to each section of the examination.

<u>Section</u>	<u># Passing/# Sitting</u>	<u>Pass %/ Section</u>
Auditing	27 77	19 %
LPR	27 85	31 %
FARE	26 110	23 %
ARE	23 85	27 %

MANY THANKS TO EXAM PROCTORS

The Board would not be able to conduct the examination without the assistance of many volunteers. It is their willingness to proctor one or two days each exam that makes the examination process secure and successful. Many, many thanks to the following who have proctored the May, 2001 CPA examination:

Patricia Awsiukiewicz
Cindy Brenneman
Lisa Finkner
Shannon Meyer
Wayne R. Meyers
Joan Morrison
Paul W. Reinsch, Sr.
Paul Shoemaker

The May exam was held at the newly opened Lancaster County Events Center at 4100 North 84th Street in Lincoln. The November exam will be held at the same location. If you can help with proctoring the November 7-8, 2001 CPA examination, please call the Board office at (800) 564-6111 or (402) 471-3595 in Lincoln, or e-mail Lisa Koch at nbpa02@nol.org.

Address Change? Let us know!

Rule 007.06 of Chapter 5 requires every certificate holder to notify the Board in writing **within thirty days** of any change of address or change of employment. The Board will not change your mailing address without written authorization from you. Notifying the Nebraska Society of CPAs of an address change will **not** change the mailing address on file with the Board. Check the mailing label on the back page, make corrections and return this form to: Board of Public Accountancy, P.O. Box 94725, Lincoln, NE 68509. *You can also change your address online on our web site: www.nol.org/home/BPA!*

Name _____ Certificate # _____

Home Address _____

City _____ State _____ Zip _____

Phone _____ E-Mail _____

Work Name _____

Work Address _____

City _____

Phone _____ E-Mail _____

Use **Home** ☐ or **Work** ☐ for Mailing Address?

Effective Date _____

NEWSLETTER MAILINGS

The Board would like to save postage and also deliver the Newsletter quicker to your desktop. Would you please answer the survey below about possible delivery methods, clip this section out and mail it (NBPA, P.O. Box 94725, Lincoln, NE 68509) or fax it (402/471-4484) to the Board's office? Thank you for your input!

"I would prefer to receive the Board's Newsletter:"
(Check one)

- ☐ By FAX: (#)_____
- ☐ By E-mail with an attached PDF file (open with Adobe Acrobat; save and/or print option);
E-mail Address to use:_____
- ☐ By E-mail that has a URL to click on and take me to the site;
E-mail Address to use: _____

NAME _____

Certificate # _____

THANK YOU!

BOARD OF PUBLIC ACCOUNTANCY

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BOARD PERSONNEL

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